

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

68-0157 (9-06) - 3091078 - EI

**SAMANTHA L OVERTON**  
Claimant

**APPEAL NO. 09A-UI-17348-HT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**WAL-MART STORES INC**  
Employer

**Original Claim: 10/11/09  
Claimant: Respondent (2-R)**

Section 96.5(1) – Quit

**STATEMENT OF THE CASE:**

The employer, Wal-Mart, filed an appeal from a decision dated November 3, 2009, reference 01. The decision allowed benefits to the claimant, Samantha Overton. After due notice was issued, a hearing was held by telephone conference call on December 23, 2009. The claimant did not provide a telephone number where she could be contacted and did not participate. The employer participated by Assistant Manager Robert Vovva.

**ISSUE:**

The issue is whether the claimant quit work with good cause attributable to the employer.

**FINDINGS OF FACT:**

Samantha Overton was employed by Wal-Mart as a full-time unloader working 4:00 p.m. until 1:00 a.m. On September 4, 2009, she came to Assistant Manager Robert Vovva and said she had had an accident at work on September 1, 2009, and hurt her arm. He immediately began to fill out the necessary forms to report the accident. While he was doing this, he mentioned he would get a female supervisor to take Ms. Overton for a drug test. This is required after any accident at work.

When Mr. Vovva mentioned the drug test, the claimant asked to speak with him privately and they went to an office. Once there, she explained she had to be honest and that there were warrants out for her arrest by the police department on various drug charges. She knew she could not pass any drug screening test. The assistant manager reminded her of the company policy which states any employee who has a work-related accident will be tested for controlled substances. Ms. Overton again said she could not pass the test and then was reminded that refusal to take the test would be grounds for discharge. At that point, she told Mr. Vovva she would simply quit and did so.

Samantha Overton has received unemployment benefits since filing a claim with an effective date of October 11, 2009.

## REASONING AND CONCLUSIONS OF LAW:

Iowa Code section 96.5-1 provides:

An individual shall be disqualified for benefits:

1. Voluntary quitting. If the individual has left work voluntarily without good cause attributable to the individual's employer, if so found by the department.

The claimant was not discharged but voluntarily quit. It was her decision to resign rather than submit to the required drug screening test after she reported a work-related accident. This is a quit for failure to comply with company policies and reasonable instructions given by a supervisor. It constitutes a voluntary quit without good cause attributable to the employer and the claimant is disqualified.

Iowa Code section 96.3-7, as amended in 2008, provides:

### 7. Recovery of overpayment of benefits.

a. If an individual receives benefits for which the individual is subsequently determined to be ineligible, even though the individual acts in good faith and is not otherwise at fault, the benefits shall be recovered. The department in its discretion may recover the overpayment of benefits either by having a sum equal to the overpayment deducted from any future benefits payable to the individual or by having the individual pay to the department a sum equal to the overpayment.

b. (1) If the department determines that an overpayment has been made, the charge for the overpayment against the employer's account shall be removed and the account shall be credited with an amount equal to the overpayment from the unemployment compensation trust fund and this credit shall include both contributory and reimbursable employers, notwithstanding section 96.8, subsection 5. However, provided the benefits were not received as the result of fraud or willful misrepresentation by the individual, benefits shall not be recovered from an individual if the employer did not participate in the initial determination to award benefits pursuant to section 96.6, subsection 2, and an overpayment occurred because of a subsequent reversal on appeal regarding the issue of the individual's separation from employment. The employer shall not be charged with the benefits.

(2) An accounting firm, agent, unemployment insurance accounting firm, or other entity that represents an employer in unemployment claim matters and demonstrates a continuous pattern of failing to participate in the initial determinations to award benefits, as determined and defined by rule by the department, shall be denied permission by the department to represent any employers in unemployment insurance matters. This subparagraph does not apply to attorneys or counselors admitted to practice in the courts of this state pursuant to section 602.10101.

The claimant has received unemployment benefits to which she is not entitled. The question of whether the claimant must repay these benefits is remanded to the UIS division.

**DECISION:**

The representative's decision of November 3, 2009, reference 01, is reversed. Samantha Overton is disqualified and benefits are withheld until she has earned ten times her weekly benefit amount, provided she is otherwise eligible. The issue of whether the claimant must repay the unemployment benefits is remanded to UIS division for determination.

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Bonny G. Hendricksmeier  
Administrative Law Judge

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Decision Dated and Mailed

bgh/kjw